

SENATE BILL NO. 198

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY SENATOR SHULTZ

Introduced: 3/13/91
Referred: Resources and Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing the Delta Clearwater Public Use Area; and providing for an effective
2 date."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 41.23 is amended by adding new sections to read:

5 Sec. 41.23.180. **PURPOSE.** The purpose of AS 41.23.180 - 41.23.199 is to establish the
6 area described in AS 41.23.198 as the Delta Clearwater Public Use Area. The Delta Clearwater
7 Public Use Area is established to

8 (1) manage, protect, and maintain the fish and wildlife populations and habitat
9 on a sustained yield basis;

10 (2) allow economic use and the enjoyment by the public and individuals of
11 recreational activities, including hunting, fishing, trapping, camping, boating, hiking,
12 snowmachining, skiing, dog mushing, and wildlife viewing;

13 (3) ensure the scenic and natural integrity of the public use area;

14 (4) permit multiple use management of upland activities within the public use area

1 to ensure that mitigation measures to alleviate potential adverse effects on water quality and
2 stream flow within the Delta Clearwater watershed will take place; and

3 (5) accommodate access for resource uses, including recreation and tourism,
4 within or adjacent to the public use area when that access is compatible with (1) and (2) of this
5 section.

6 Sec. 41.23.183. MANAGEMENT PLAN. (a) Management of the surface and subsurface
7 estate of the Delta Clearwater Public Use Area is the responsibility of the commissioner.

8 (b) After adequate public hearings and consultation with the board, the commissioner
9 may designate incompatible uses under AS 41.23.192 and shall propose a management plan for
10 the Delta Clearwater Public Use Area. After making the proposed management plan public for
11 at least 60 days, the commissioner shall consult with the Department of Fish and Game and the
12 board before adopting or revising a management plan under this section.

13 (c) The management plan prepared under (b) of this section may

14 (1) establish guidelines and restrictions, if necessary, for activities occurring on
15 land and water within the public use area;

16 (2) protect, maintain, or enhance the fish and wildlife habitat and the free flowing
17 nature of water within the public use area;

18 (3) identify special recreation values and manage the level of intensity and types
19 of recreation uses;

20 (4) designate management guidelines for development activities;

21 (5) designate management guidelines for commercial recreation activities or
22 development, including recreation services;

23 (6) provide for necessary public services, such as transportation and utility
24 corridors, river crossing or fording corridors, public safety, and law enforcement;

25 (7) allow reasonable access to public land and private inholdings, including
26 municipal land that is offered for sale or lease; and

27 (8) establish criteria and expedient time lines to review future proposed uses for
28 compatibility with AS 41.23.180.

29 (d) The commissioner shall submit the management plan proposed under (b) of this
30 section to the legislature for review within the first 10 days of the regular session of the
31 legislature that first convenes after completion of the proposed management plan by the

1 commissioner. The management plan takes effect 100 days after submission of the plan to the
2 legislature unless rejected by an Act of the legislature.

3 (e) The commissioner may periodically amend or revise the management plan adopted
4 under this section. The provisions of (b) - (d) of this section apply to amendments and revisions
5 of the management plan that are proposed by the commissioner under this subsection.

6 (f) When the commissioner prepares a management plan under (b) of this section or
7 proposes to amend or revise the management plan under (e) of this section, the commissioner
8 shall schedule at least two public hearings on the proposed plan, or amendments or revisions of
9 it, in Delta Junction.

10 (g) The commissioner shall adopt regulations necessary to implement the management
11 plan. The commissioner may not adopt regulations before a management plan takes effect.

12 Sec. 41.23.186. MANAGEMENT. (a) The commissioner may negotiate with the board
13 a local management agreement for the management of the Delta Clearwater Public Use Area.

14 (b) The Department of Fish and Game is responsible for the management of fish and
15 game resources in the Delta Clearwater Public Use Area consistent with the purposes of
16 AS 41.23.180. The Department of Public Safety and the Department of Fish and Game shall
17 have necessary access for fish and game management, research, and enforcement purposes.

18 (c) The commissioner shall allow traditional access to the Delta Clearwater Public Use
19 Area by motorized or nonmotorized means of transportation to private land, interests in private
20 land, and for lawful sport and subsistence hunting, fishing, trapping, and recreational purposes
21 in a manner that is compatible with purposes specified in AS 41.23.180.

22 Sec. 41.23.189. PROHIBITIONS. (a) The state may not acquire by eminent domain
23 privately-owned land within or abutting state-owned land described in AS 41.23.198 but may
24 acquire privately-owned land by purchase, exchange, or otherwise for inclusion in the Delta
25 Clearwater Public Use Area.

26 (b) The commissioner may not manage the Delta Clearwater Public Use Area as a unit
27 of the state park system.

28 (c) The commissioner may not restrict lawful sport and subsistence fishing, hunting, or
29 trapping rights allowed under a regulation of the Board of Fisheries or the Board of Game within
30 the Delta Clearwater Public Use Area.

31 Sec. 41.23.192. INCOMPATIBLE USES. (a) Except as provided in AS 41.23.186 -

1 41.23.189, the commissioner, after consultation with the board, and after holding public hearings,
2 may prohibit or restrict incompatible uses under the management plan adopted under
3 AS 41.23.183 within the state-owned land and water described in AS 41.23.198.

4 (b) If the commissioner determines that a use is incompatible with one or more other
5 uses in a portion of the Delta Clearwater Public Use Area, the commissioner shall state in the
6 management plan adopted under AS 41.23.183

7 (1) each determination of incompatibility;

8 (2) the specific area where the incompatibility is determined to exist;

9 (3) the time within which the incompatibility is determined to exist; and

10 (4) the reasons for each determination of incompatibility.

11 Sec. 41.23.195. DELTA CLEARWATER MANAGEMENT BOARD. (a) The Delta
12 Clearwater Management Board is established. The board consists of three nonvoting members
13 and seven voting members. The nonvoting members, who serve in an advisory capacity to the
14 board, include the commissioner of natural resources or the commissioner's designee, the
15 commissioner of fish and game or the commissioner's designee, and the director of the division
16 of parks and outdoor recreation or the director's designee. The governor shall appoint

17 (1) voting members representing

18 (A) the local fish and game advisory committee established for the Delta
19 Clearwater area;

20 (B) the soil and water conservation district established for the Delta
21 Clearwater area;

22 (C) the City of Delta Junction;

23 (D) the Deltana Community Corporation;

24 (E) Delta sportsman organizations; and

25 (F) the local parks and recreation organizations serving the Delta
26 Clearwater area; and

27 (2) a voting member who is a resident of the Delta community, including Delta
28 Junction and Big Delta.

29 (b) The voting members of the board shall annually elect one of the voting members as
30 the board chair and may elect other board officers.

31 (c) The board may meet at the call of the board chair as often as the members consider

1 necessary.

2 (d) Voting members of the board serve staggered three-year terms.

3 (e) Voting members of the board receive no salary and are not entitled to travel
4 reimbursement or per diem. However, the chair of the board is entitled to reimbursement for
5 travel and per diem authorized for members of boards and commissions under AS 39.20.180
6 when the chair is required to travel from Delta Junction and the travel is approved by the
7 commissioner.

8 (f) The board shall establish rules and bylaws as the board considers necessary.

9 (g) Voting members of the board are exempt from liability for decisions made by the
10 board under AS 41.23.180 - 41.23.199.

11 (h) The board may, by a unanimous vote of the board's voting members, require the
12 commissioner to reconsider a decision made by the commissioner under AS 41.23.180 -
13 41.23.199. Until a report of the reconsideration is given, the commissioner may not implement
14 a decision for which reconsideration has been requested by the board under this subsection.
15 When the commissioner reconsiders a decision under this subsection, the commissioner shall
16 provide a written decision, including findings and a statement of the basis for the decision made
17 on reconsideration, to the board.

18 Sec. 41.23.198. DELTA CLEARWATER PUBLIC USE AREA. The vacant and
19 unappropriated state-owned land and the state land acquired in the future that lie within the Delta
20 Clearwater watershed encompassed in the following townships are designated as the Delta
21 Clearwater Public Use Area, are reserved for all uses compatible with their primary function as
22 public use land, and are assigned to the department for management:

- 23 (1) Township 9 South, Range 11 East, Fairbanks Meridian
24 (2) Township 10 South, Range 11 East, Fairbanks Meridian
25 (3) Township 10 South, Range 12 East, Fairbanks Meridian
26 (4) Township 10 South, Range 13 East, Fairbanks Meridian
27 (5) Township 10 South, Range 14 East, Fairbanks Meridian
28 (6) Township 11 South, Range 12 East, Fairbanks Meridian
29 (7) Township 11 South, Range 13 East, Fairbanks Meridian
30 (8) Township 12 South, Range 13 East, Fairbanks Meridian

31 Sec. 41.23.199. DEFINITION. In AS 41.23.180 - 41.23.199, "board" means the Delta

- 1 Clearwater Management Board established by AS 41.23.195.
- 2 * Sec. 2. The provisions of AS 39.05.053(5) apply to the terms of voting members of the Delta
- 3 Clearwater Management Board who are first appointed under AS 41.23.195, added by sec. 1 of this Act.
- 4 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).